IN THE HIGH COURT OF BOMBAY AT GOA.

CIVIL REVISION APPLICATION NO. 156 OF 2002.

Kazi Mohamad Issac
s/o Kazi Kutubudin,
r/o Kaziwada, Ponda, Goa. ... Applicant.

Versus

1. Shri Nagesh Babusso Gaude,
   r/o Achem, Betoda, Ponda, Goa.
2. Shri Mangesh Babusso Gaude,
   r/o Achem, Betoda, Ponda, Goa.
3. Shri Bombo Babusso Gaude,
   (deceased represented by
   legal representatives:
3a. Smt. Kamalavati @ Mogar Bombo
   Gaude,
3b. Paresh Bombo Gaude,
3c. Gita Bombo Gaude,
3d. Shailesh Bombo Gaude,
3e. Sangita Bombo Gaude,
   All r/o Bethora, Ponda, Goa.
4. Shri Guru Sukdow Gaude,
   r/o Achem, Betoda, Ponda, Goa.
5. Emuna Sukdow Gaude,
   r/o Achem, Betoda, Ponda, Goa. ... Respondents.

Mr. Sudin Usgaonkar, Advocate for the Applicant.

Mr. R.G. Ramani, Advocate for the Respondents 3 and 4.

Coram: P.V. HARDAS, J.

Date: 16th August 2002.

ORAL JUDGMENT.

By consent, this application is taken up for final hearing.

This Civil Revision Application has been filed against the Order of the learned Civil Judge, Senior Division, Ponda, dated 6th March 2002, dismissing the application for amendment filed by the present applicant/original plaintiff. The Order rejecting the application is filed by the present applicant. A perusal of the said Order discloses that the learned trial Judge has held that the present

applicant was playing a third inning by putting a bouncer to get appropriate remedy but he could not escape from the conclusion that earlier in the point of time similar innings had been made by him.

2. Mr. Usgaonkar, the learned counsel appearing for the present applicant, has drawn my attention to the legal provision in which the spouses of the present respondents are necessary parties in view of the fact that the suit is for declaration. Mr. Ramani, the learned counsel appearing on behalf of the respondents/original defendants has urged that the plaintiff had filed an application proposing to bring on record certain proposed defendants and subsequent to the said application, the plaintiff had filed an application for deleting certain names of the proposed defendants. It is true that the application for amendment for bringing the spouses of the defendants on record does not show that in law they are necessary parties. It is urged before me, relying on the provision of law, that the spouses of the defendants are necessary parties. The application before the learned trial Court is not very happily worded. The Order of the learned trial Court also speaks of 'bouncer' and 'innings'. Mr. Usgaonkar, the learned counsel for the applicant, states that he may be permitted to file a proper application pointing out the

legal necessity of joining the spouses as parties to the suit.

3. In view of the aforesaid discussion, I am of the considered opinion that the Order passed by the learned trial Court in Civil Miscellaneous Application No. 66/2001/A, dated 6th March 2002, is unsustainable and is, therefore, quashed and set aside. The applicant/plaintiff is permitted to withdraw the Civil Miscellaneous Application No. 66/2001/A with liberty to file proper application for joining the spouses of the defendants as parties to the suit. On such application being filed by the present applicant/original plaintiff, the learned trial Court shall decide it in accordance with law.

4. Civil Revision Application, thus, stands disposed of on the aforesaid terms.

(P.V. HARDAS)
JUDGE.

ed's.